



## Forest Heights Police Department Policy and Procedures Manual

Subject:	Domestic Violence Court Orders			
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Chapter: 17	Section: 2	Number of Pages:	5	Replaces: All New
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### A. Purpose

To provide to Forest Heights Police Department (FHPD) officers a basic overview of domestic violence court orders.

### B. Policy

Officers will enforce domestic violence court orders in accordance with the law.

### C. Definitions

1. ABUSE: means an act that causes, or places a person in fear of, serious bodily harm; assault; rape or sexual offense or an attempted rape or sexual offense; false imprisonment; or stalking.
2. COHABITANT: a person who had a sexual relationship with the respondent and resided with the respondent in the home for at least 90 days within one year before the filing of a petition.
3. PERSONS ELIGIBLE FOR RELIEF: the current or former spouse or cohabitant of the respondent; a person related to the respondent by blood, marriage, or adoption; a vulnerable adult; an person who has a child in common with the respondent; or a parent, stepparent, child, or stepchild of the respondent or the person eligible for relief who resides or resided with the respondent or person eligible for relief for at least 90 days within one year before the filing of the petition.
4. PETITIONER: a person who files a petition; includes a person eligible for relief and persons who may seek relief from abuse on behalf of a minor or vulnerable adult.
5. RESPONDENT: the person alleged to have committed abuse.
6. VULNERABLE ADULT: an adult who lacks the physical or mental capacity to provide for his daily needs

### D. Procedures

1. Protective Orders
  - a. Protective Orders, issued by a judge or commissioner, are to prevent respondents from committing certain acts against the petitioner.
  - b. Only Persons Eligible for Relief are covered by a Protective Order.
  - c. The petitioner must be able to show abuse has occurred.
  - d. Types of Protective Orders.
    - (1) INTERIM PROTECTIVE ORDER: issued by a court commissioner during hours courts are closed; remain valid until the Temporary Protective Order Hearing, or the end of the second court business day.
    - (2) TEMPORARY PROTECTIVE ORDER: issued by a judge after a hearing; remain valid for up to seven days, but may be extended for up to six months.
    - (3) FINAL PROTECTIVE ORDER: issued by a judge after a Final Protective Order Hearing, generally valid for up to one year.

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### **2. Peace Orders**

- a. A Peace Order, issued by a judge, is to prevent the respondent from committing certain acts against the petitioner.
- b. A person cannot file for a Peace Order if they are eligible for a Protective Order.
- c. The Petitioner must be able to show the respondent committed abuse, harassment, trespass or malicious destruction of property against the petitioner within 30 days before the filing of the Peace Order:
- d. Types of Peace Orders.
  - (1) INTERIM PEACE ORDER: issued by a court commissioner during hours courts are closed; remain valid until the Temporary Peace Order Hearing, or the end of the second court business day.
  - (2) TEMPORARY PEACE ORDER: issued by a judge after a hearing; remain valid for up to seven days, but may be extended for up to 30 days.
  - (3) FINAL PEACE ORDER: issued by a judge after a Final Peace Order Hearing - generally valid for up to six months.

### **3. Enforcement of Protective and Peace Orders**

- a. Protective and Peace Orders must be served on the respondent before enforcement action can be taken.
- b. When officers are told of the existence of a Protective or Peace Order, but no document is present, they will request the Prince George's County Police Department (PGCoPD) Communications Section to query METERS/NCIC to verify whether a Protective or Peace Order exists, if it has been served and the conditions of the order.
- c. An officer will arrest the respondent if he has probable cause to believe the respondent is in violation of a Protective or Peace Order, but only for an arrestable violation as shown in subsection E of this policy.
- d. If the violation is non-arrestable, the officer will inform the respondent and petitioner that:
  - (1) the respondent is in violation and that the court can find the respondent in contempt;
  - (2) the parties cannot mutually consent to changing the conditions of the order and only the issuing court can modify or rescind the order; and
  - (3) if the petitioner wants to change the conditions of the order, he should go to the court and seek a modification or cancelation of the order.
- e. A law enforcement officer does not have standing to file for contempt - only a petitioner and a respondent have standing to file a petition for contempt.
- f. Officers who are called to a scene where a respondent has been invited into the residence by the petitioner will:
  - (1) arrest the respondent, if he is in violation of an arrestable condition; and
  - (2) not arrest the petitioner

### **4. Out-of-State Court Orders**

- a. Out-of-state Peace Orders and Interim Protective Orders cannot be enforced in Maryland.
- b. Temporary and Final Protective Orders issued by another state or an Indian tribe will be accorded full faith and credit by a court of this State and will be enforced to the extent permitted under Family Law Article, §4-501, Annotated Code of Maryland *et seq.*

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- (1) An out-of-state Temporary Protective Order may be enforced for not more than seven days after service of the order.
- (2) An officer may enforce an out-of-state Final Protective Order for as long as it is effective in the other state.
- (3) An officer will arrest a person if he has probable cause to believe the person is in violation of the out-of-state Temporary or Final Protective Order, but only if the condition is an arrestable offense in Maryland as shown in subsection E of this policy.
- (4) If the condition is a civil violation in Maryland, even if it is a criminal violation in the other state, the officer may not make an arrest but will refer the petitioner to a Maryland court where the petitioner may petition for contempt.

### **c. Validating Out-of-State Protective Orders**

- (1) Officers should examine any out-of-state Protective Order to determine whether it appears valid on its face (e.g., names, dates, terms, court, and signature).
- (2) Officers can validate out-of-state Protective Orders by contacting the court or a law enforcement agency in the issuing state.
- (3) When the petitioner does not possess a copy of the Protective Order, the officer may make an arrest when:
  - (a) the Protective Order is confirmed through METERS/NCIC; or
  - (b) verification with a Maryland court that the petitioner seeks assistance with the order and that the order is on file.
- (3) Officers unable to verify an out-of-state Protective Order should:
  - (a) arrest the respondent for any arrestable offenses he has committed;
  - (b) advise the petitioner on how to file for contempt with the issuing court; and
  - (c) refer the petitioner to the local domestic violence service provider for assistance in obtaining a Maryland Protection Order and additional safety planning.

### **5. Serving Protective and Peace Orders**

- a. Generally, Protective and Peace Orders are served by the local sheriff's department, however, if an officer serves a Protective or Peace Order, the Protective or Peace Order will be processed in accordance with FHPD policy for serving warrants, summonses and court orders.
- b. When serving a Protective or Peace Order that orders the respondent to vacate the residence, the officer will ensure the respondent vacates and takes only those personal belongings he may need to live and work during the period before the hearing.
- c. If the respondent refuses to vacate after being served, the officer will arrest the respondent for violating the order.
- d. If conflicting vacate orders have been issued by different courts, the officer will first attempt to reconcile the conflicting orders before service.
  - (1) If unable to reconcile the conflicting orders, the officer will serve both orders and enforce them as necessary.
  - (2) After service, the officer will refer both parties to the issuing court for resolution and will notify both courts of the conflict.
- e. The FHPD Chief or designee will coordinate with the Provost Marshal regarding serving Protective and Peace Orders for people who reside or work on a military base.
- f. Notification of Service for Protective Orders.

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- (1) The law requires the Department of Public Safety and Correctional Services (DPSCS) to notify petitioners of Protective Orders regarding the service of the order when the petitioner requests such notification through the court.
- (2) Officers serving a Protective Order will immediately notify the PGCOPD Communications Section upon serving the order.
- (3) Within one hour of the Protective Order being served, the PGCOPD Communications section should complete the METERS/NCIC confirmation of service, which will trigger the notification to DPSCS.
- (4) If METERS/NCIC is inaccessible, the PGCOPD Communications Section should follow current emergency procedures for contacting submitting data for manual entry.

### **6. Child Custody**

- a. With the exception of cases involving a child's safety, all child custody issues, including those, which are addressed in Protective Orders, are civil matters and should be referred to the local department of social services and the courts.
- b. If a child visitation situation constitutes a violation of a Protective Order, the officer should advise the petitioner that the petitioner may file for contempt with the issuing court.
- c. When a child's safety is at risk, officers will ensure the child is moved to a safe environment.
- d. If the person is denied access to the family residence the officer will:
  - (1) if the complainant is eligible to file for Protective or Peace Order, review Protective / Peace Orders rights with the victim; and
  - (2) refer the person to the local domestic violence advocate for assistance and support and/or recommend the person seeks the advice of an attorney.

### **E. Arrestable and Non-Arrestable Conditions for Protective and Peace Orders**

Possible Court Ordered Actions	Interim Protective Order	Interim Peace Order	Temporary Protective Order	Temporary Peace Order	Final Protective Order	Final Peace Order	Arrestable Offense
Order the respondent to refrain from further abuse or threats of abuse.	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Order the respondent to refrain from contacting or attempting to contact or harass the victim	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Order the respondent to refrain from entering the victim's residence	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Order the respondent to stay away from the victim's place of employment, school, or temporary residence	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Grant temporary possession of the residence to the victim or an adult family member, under certain circumstances	Yes	No	Yes	No	Yes	No	Yes
Award temporary custody of minor children	Yes	No	Yes	No	Yes	No	No
Establish temporary visitation and conditions	No	No	Yes	No	Yes	No	No
Award emergency family maintenance	No	No	No	No	Yes	No	No
Award temporary use and	No	No	No	No	Yes	No	No

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possession of jointly owned vehicle							
Order counseling	No	No	No	No	Yes	Yes	No
Order respondent to pay court costs	No	No	No	No	Yes	Yes	No
Order the respondent to remain away from the victim's child care provider	No	No	Yes	No	Yes	No	No
Order the respondent to surrender firearms	No	No	No	No	Yes	No	Yes
Order the respondent to vacate the residence immediately	Yes	No	Yes	No	Yes	No	Yes